

Senate Study Bill 1121

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
BUSINESS AND LABOR
RELATIONS BILL BY
CO=CHAIRPERSON WIECK)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to an award of punitive or exemplary damages in a
2 civil case.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 1777SC 81
5 rh/gg/81

PAG LIN

1 1 Section 1. Section 668A.1, subsection 1, Code 2005, is
1 2 amended to read as follows:
1 3 1. In a trial of a claim involving the request for
1 4 punitive or exemplary damages, the court shall instruct the
1 5 jury to answer special interrogatories or, if there is no
1 6 jury, shall make findings, indicating all of the following:
1 7 a. Whether, by a preponderance of clear, and convincing,
~~1 8 and satisfactory~~ evidence, the conduct of the defendant from
~~1 9 which the claim arose constituted willful and wanton disregard~~
~~1 10 for the rights or safety of another actual malice.~~
1 11 b. Whether the conduct of the defendant was directed
1 12 specifically at the claimant, or at the person from which the
1 13 claimant's claim is derived.
1 14 Sec. 2. NEW SECTION. 668A.2 DEFINITIONS.
1 15 As used in this chapter:
1 16 1. "Clear and convincing evidence" means evidence that
1 17 leaves no serious or substantial doubt about the correctness
1 18 of the conclusions drawn from the evidence. It is more than a
1 19 preponderance of the evidence, but less than beyond a
1 20 reasonable doubt.
1 21 2. "Malice" means either conduct that is specifically
1 22 intended by the defendant to cause tangible or intangible
1 23 serious injury to the plaintiff or conduct that is carried out
1 24 by the defendant both with a flagrant indifference to the
1 25 rights of the plaintiff and with a subjective awareness that
1 26 such conduct will result in tangible serious injury.
1 27 Sec. 3. NEW SECTION. 668A.3 AWARD OF PUNITIVE OR
1 28 EXEMPLARY DAMAGES == PROOF == STANDARD.
1 29 Punitive or exemplary damages shall only be awarded where
1 30 the plaintiff proves by clear and convincing evidence that the
1 31 plaintiff's injury was the result of actual malice. This
1 32 burden of proof shall not be satisfied by proof of any degree
1 33 of negligence, including gross negligence.
1 34 Sec. 4. APPLICABILITY. This Act applies to cases filed on
1 35 or after July 1, 2005.

EXPLANATION

2 1 This bill relates to an award of punitive or exemplary
2 2 damages in a civil case.
2 3 The bill requires that in a civil trial of a claim
2 4 involving a request for punitive or exemplary damages, either
2 5 the judge or the jury shall determine whether, by a
2 6 preponderance of clear and convincing evidence, the
2 7 defendant's conduct from which the claim arose constituted
2 8 actual malice. The bill provides that a finding that the
2 9 defendant was negligent or even grossly negligent will not
2 10 satisfy the burden of proof standard. The bill further
2 11 defines "clear and convincing" to mean evidence which leaves
2 12 no serious or substantial doubt about the evidence, and
2 13 "malice" to mean conduct specifically intended by the
2 14 defendant to cause tangible or serious injury or conduct
2 15 carried out by the defendant both with a flagrant indifference
2 16 to the plaintiff's rights and with an awareness that such

2 18 conduct will result in tangible serious injury.
2 19 The bill applies to cases filed on or after July 1, 2005.
2 20 LSB 1777SC 81
2 21 rh:rj/gg/14